

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

**Agenda ID #4885**

August 19, 2005

TO: PARTIES INTERESTED IN RESOLUTION ALJ-187

This draft resolution will be on the agenda at the September 22, 2005 Commission meeting. The Commission may then vote on this draft resolution, or it may postpone a vote.

When the Commission acts on the draft resolution, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own order. Only when the Commission acts does the resolution become binding on the parties.

Parties to the proceeding may file comments on the draft resolution. Opening comments shall be filed and served no later than September 8, 2005. Service is required on all parties shown on the attached service list.

Finally, comments must be served on Assistant Chief Administrative Law Judge Steven Kotz in the ALJ Division, and for that purpose I suggest e-mail (kot@cpuc.ca.gov), hand delivery, overnight mail or other expeditious method of service.

/s/ ANGELA K. MINKIN by Steve Kotz

Angela K. Minkin
Chief Administrative Law Judge

ANG:hl2

Attachment

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ-187
Administrative Law Judge Division
September 22, 2005

R E S O L U T I O N

RESOLUTION ALJ-187. Adopts Procedures for Appeal of Citations Issued to Household Goods Carriers, Charter Party Carriers, and Passenger Stage Corporations.

By a series of previous resolutions, the Commission has developed a program under which members of the Consumer Protection and Safety Division (CPSD) staff are authorized to issue citations to various classes of carriers for violation of the Public Utilities Code or the Commission's regulations. In turn, a carrier issued such a citation may accept the fine imposed or contest it through a process of appeal. Now, in an effort to make this program more comprehensive and this process more efficient, the Commission has prepared new procedures to govern the appeal of these citations.

IT IS THEREFORE RESOLVED that the following procedures shall govern appeals of citations for violation of statutes or Commission regulations relating to household goods carriers, charter party carriers, and passenger stage corporations:

1. *Citation: Contents.* The citation served upon the respondent by the investigator shall include:
 - (a) A specification of each statute, regulation, or order of the Commission allegedly violated;
 - (b) A statement of the facts upon which each alleged violation is based;
 - (c) A statement that the respondent may either pay the amount of the fine set forth in the citation or appeal the citation, as set forth herein;
 - (d) An explanation of how to file an appeal, including an explanation of the respondent's right to have a hearing, to have a representative at the hearing, to request a transcript, and to request an interpreter; and
 - (e) A form of Notice of Appeal, and the form for requesting an interpreter.

2. *Citation: Response.* The respondent, within 20 days after the date of service of the citation, shall either remit payment of the full amount of the fine to CPSD, agree with CPSD on conditions for payment, or serve a Notice of Appeal upon CPSD. Upon request made to CPSD before the expiration of this deadline, the time to pay the fine or serve a Notice of Appeal may be extended by CPSD for a reasonable period not to exceed 30 days. CPSD may, in its discretion, grant one additional extension at the request of the respondent.
3. *Citation: Payment of fine; default.* If the respondent pays the full amount of the fine within the time allowed hereunder, the citation shall become final. If the respondent, within the time allowed pursuant to Paragraph 2, fails to pay the full amount of the fine or to file a Notice of Appeal, or if the respondent, having entered into an agreement with CPSD, fails to comply with any provision of that agreement, the respondent shall be in default, and the citation shall become final by resolution. In this event, CPSD shall suspend or revoke the respondent's license, and may take any other action provided by law to recover unpaid fines and ensure compliance with applicable statutes and Commission orders.
4. *Citation: Appeal.*
 - (a) The Chief Administrative Law Judge shall designate an Administrative Law Judge to hear appeals of citations.
 - (b) Appeals of citations shall be heard in the Commission's San Francisco or Los Angeles courtrooms on regularly scheduled days. Appeals shall be calendared accordingly, except that a particular matter may be recalendared at the direction of the designated Administrative Law Judge.
 - (c) The appeal shall be brought by serving a Notice of Appeal (see Paragraph 1(e) above) upon CPSD, and the respondent shall indicate the grounds for the appeal in the notice. CPSD shall promptly advise the Chief Administrative Law Judge upon receipt of a timely Notice of Appeal.
 - (d) Upon advice from CPSD that a citation has been appealed, the Chief Administrative Law Judge shall promptly forward the matter to the designated Administrative Law Judge, who shall set the matter for hearing on the first Citation Calendar not less than 10 days after advice of the appeal is received from CPSD. The Administrative Law Judge may, for good cause shown or upon agreement of the parties, grant a reasonable continuance of the hearing.

- (e) The respondent may order a transcript of the hearing, and shall pay the cost of the transcript in accordance with the Commission's usual procedures.
- (f) The respondent shall be entitled to the services of an interpreter at the Commission's expense upon written request to the Chief Administrative Law Judge not less than three business days prior to the date of the hearing.
- (g) The respondent may be represented at the hearing by an attorney or other representative, but any such representation shall be at the respondent's sole expense.
- (h) At the hearing, CPSD shall open and close. The Administrative Law Judge may, in his or her discretion, alter the order of presentation. Formal rules of evidence do not apply, and all relevant and reliable evidence may be received in the discretion of the Administrative Law Judge.
- (i) Ordinarily, the appeal shall be submitted at the close of the hearing. In the discretion of the Administrative Law Judge upon a showing of good cause, the record may be kept open for a reasonable period to permit a party to submit additional evidence or argument.
- (j) The Administrative Law Judge shall issue an order resolving the appeal not later than 30 days after the appeal is submitted, and the order shall be placed on the first available agenda, consistent with the Commission's applicable rules.
- (k) From the date that CPSD receives a Notice of Appeal to and including the date when the final order is issued, neither the respondent nor the investigator, or agent or other person on behalf of the respondent or investigator, may communicate regarding the appeal, orally or in writing, with a Commissioner, Commissioner's advisor, or Administrative Law Judge, except as expressly permitted under these procedures.

This resolution becomes effective today.

I certify that this resolution was adopted by the Public Utilities Commission at its regular meeting on _____, 2005, the following Commissioners approving it:

STEVE LARSON
Executive Director

